

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EVAN WEINER, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

SNAPPLE BEVERAGE CORPORATION,

Defendant.

Civil Action No.: 1:07-cv-08742

NOTICE OF MOTION TO DISMISS

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the Memorandum of Law in Support of Defendant Snapple Beverage Corporation's Motion to Dismiss, the undersigned will move this Court, before The Honorable Denise Cote, United States District Judge for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, New York, on a date designated by the Court, for an order dismissing Plaintiff's Complaint in its entirety with prejudice, and granting such other relief as this Court may deem just and proper.

BAKER BOTTS L.L.P.

Dated: November 6, 2007

/s/ Seth T. Taube

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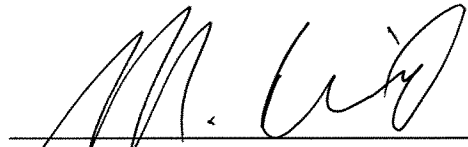
CERTIFICATION OF SERVICE

I, Maureen P. Reid, hereby certify that on this 6th day of November, 2007, a true and correct copy of Defendant's Notice of Motion to Dismiss, Memorandum in Support of Motion to Dismiss (and attached exhibits), and proposed Order were served via electronic filing and regular first class mail, postage prepaid, upon the following counsel of record:

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